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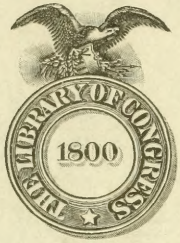
MESSAGE OF THE PRESIDENT OF THE UNITED STATES ON FUR SEALS.

Communicated to Congress, January 8, 1913.



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MESSAGE OF THE PRESIDENT OF THE UNITED STATES

ON

FUR SEALS

COMMUNICATED TO THE
TWO HOUSES OF CONGRESS
WEDNESDAY, JANUARY 8, 1913

U. S. President, 1909-1913 (Taft)

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MESSAGE.

To the Senate and House of Representatives:

At the last session of Congress an act was adopted to give effect to the fur-seal treaty of July 7, 1911, between Great Britain, Japan, Russia, and the United States, in which act was incorporated a provision establishing a five-year period during which the killing of seals upon the Pribilof Islands is prohibited. Prior to the passage of this act, I pointed out in my message to Congress, on August 14 last, the inadvisability of adopting legislation the effect of which was to require this Government to suspend the killing of surplus male seals on land before it was actually proved by the test of experience and scientific investigation that such suspension of killing was necessary for the protection and preservation of the seal herd. I also pointed out in that message that the other Governments interested might justly complain if this Government by prohibiting all land killing should deprive them of their expected share of the skins taken on land, unless we can show by satisfactory evidence that this course was adopted as the result of changed conditions justifying a change in our previous attitude on the subject. As was then anticipated, the other parties interested have now objected to the suspension thus imposed on the ground that it is contrary to the spirit, if not the letter of the treaty, inasmuch as under existing conditions a substantial number of male seals not required for breeding purposes can be killed annually without detriment to the reproductive capacity of the herd. The same objection was raised by the other Governments interested under this convention while the bill was awaiting my signature, after its passage by Congress, but I refrained from vetoing it because at that time several thousand sealskins had already been taken on the islands and were ready for distribution in accordance with the requirements of the treaty, so that the suspension of land killing would not actually become effective until the following year, and I was satisfied that the information resulting from a study of the condition of the herd during the past summer would put this Government in possession of facts which would either lead to the amendment of the act at this session of Congress, or enable this Government to justify a temporary suspension of land killing; and apart from this particular provision, the act was needed to give effect to our treaty obligations.

It now appears that under the operation of the fur-seal convention during the past year the condition and size of the herd has improved to an extent which seems to indicate that there is now no necessity, and therefore no justification, for the suspension of all land killing of male seals, as required by the act under consideration.

Last season's reports from the officials in charge on the Pribilof Islands show that the herd which the year before contained at the

highest estimate not more than 140,000 seals, now numbers upward of 215,000 by actual count, showing in one season an increase of at least 75,000 seals. This increase is largely due to the protection afforded by the treaty to the breeding female seals, which last summer numbered nearly 82,000, many thousands of which, except for the treaty, would have been slaughtered by the pelagic sealers, and as every breeding female adds one pup to the herd each year, over 81,000 new pups were added last season. Moreover, instead of losing 10,000 or 15,000 of these pups through starvation as heretofore on account of the slaughter of the nursing mothers by pelagic sealers, this summer by actual count the number of dead pups found on the rookeries was only 1,060.

It is evident from these reports that there has been a very remarkable increase in the size of the herd in one season under the operation of this convention and that a large part of this increase consists of female seals, upon which the future increase of the herd depends.

The present condition of the herd shows that there will be about 100,000 breeding female seals in the herd next summer, each one of which will produce one pup, and in the following year the female pups born last summer, amounting in accordance with the laws of nature to one-half of the total number of the year's pups, will pass into the breeding class, subject to losses from natural mortality, thus adding a possible 40,000 more, which would bring the total up in the neighborhood of 140,000 breeding female seals; and so on from year to year the reproductive strength of the herd will increase in almost geometrical progression, so that we can confidently count on having the present size of the herd doubled and trebled within a very short period.

All that is required to fulfill these expectations is to protect absolutely the female seals and set aside an adequate number of male seals for breeding purposes. The protection and preservation of the herd does not require the protection and preservation of the surplus male seals not needed for breeding purposes. Owing to the polygamous habits of the seals, the increase in the number of these surplus bachelor seals can in no conceivable way increase the birth rate or the reproductive capacity of the herd. Seals of this class contribute nothing to the welfare of the herd, and in some ways they are a distinct detriment as a disturbing element on the rookeries and as consumers of food, which is bound to become scarcer as the size of the herd increases. These nonbreeding males, therefore, are of no value as members of the herd, except to furnish skins for the market in place of those heretofore taken by pelagic sealers, and in this connection it should be noted that the value of their skins for commercial purposes diminishes after they are 4 years old and ceases altogether after the age of 5 or 6.

It is right and necessary that the killing of all seals in the herd other than the nonbreeding males should be absolutely prohibited not only for five years but forever. Land killing has been and always must be strictly limited by law to male seals, so that female seals would never be included in land killing in any event. Pelagic sealing, on the other hand, always has been chiefly directed against female seals, thus diminishing the size of the herd not merely by the number actually killed each year but also by an equal number of nursing pups killed by starvation and by the loss of the countless

number of unborn pups which would have been added to the herd the following year and in succeeding years. Pelagic sealing has now been stopped, but it must be remembered that the United States alone was powerless to stop it. An international agreement was necessary for that purpose, and has at last been secured after difficult and protracted negotiations resulting in the present convention with Great Britain, Japan, and Russia, who have now joined with us in prohibiting pelagic sealing, and whose cooperation is necessary to make that prohibition effective. To secure such an agreement has been the aim of the United States throughout the entire period covered by the fur-seal controversy, and from the point of view of the United States this prohibition against pelagic sealing is the most important feature of the present convention. In order, however, to secure its adoption by Great Britain and Japan it was necessary for the United States to agree to give each of them a share of the proceeds of the annual increase of the American herd with the assurance, as an inducement, that a large annual increase available for commercial purposes would result from the abandonment of pelagic sealing. As stated in my former message to Congress on this subject:

> Ever since the question of land killing of seals was subjected to scientific investigation, soon after the fur-seal controversy arose, nearly 25 years ago, this Government has invariably insisted throughout the protracted and almost continuous diplomatic negotiations which have ensued for the settlement of this controversy that the progressive diminution of the herd was due to the killing of seals at sea, and that if pelagic sealing was discontinued the polygamous habits of the seals would make it possible to kill annually on land a large number of surplus males without detriment to the reproductive capacity of the herd and without interfering with the normal growth of the size of the herd. The position thus taken by the United States has always been put forward and relied on by the United States in urging that an international agreement should be entered into prohibiting pelagic sealing; and it is obvious that one of the considerations which induced Great Britain and Japan to enter into this convention prohibiting their subjects from pelagic sealing was the expectation that the position thus taken by the United States was well founded and that the skins falling to the share of those Governments from the land killing of seals, as provided for in this convention, would compensate them for abandoning the taking of sealskins at sea.

It was well understood by all the parties in entering into this convention that the result aimed at was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd.

It is evident from these considerations that the United States is in honor bound under this convention to permit the killing annually for commercial purposes of male seals not required as a reserve for breeding before they have passed beyond the age when their skins cease to have a commercial value.

The question of how many male seals should be reserved each year for breeding purposes can readily be determined. In the act under consideration, as it passed the House and before it was amended in the Senate, there was a provision that hereafter only 3 year old males shall be killed, and that there shall be reserved from among the finest and most perfect seals of that age not fewer than 2,000 in 1913, 2,500 in 1914, 3,000 in 1915, 3,500 in 1916, and 4,000 each year from 1917 to 1921, inclusive, and 5,000 each year thereafter during the continuance of the convention. These figures were arrived at after full and careful investigation by the House Committee on Foreign Affairs,

and it appears from the committee reports accompanying this act that these figures were intended to be and were regarded as large enough to be on the safe side. It would be more appropriate and convenient to leave the decision of this question to the Secretary of Commerce and Labor, subject to the limitation, which might properly be imposed, that each year before any commercial killing is done there should be marked and set aside or reserved from among the finest and best of the males of 3 years of age such number as is necessary, in his judgment, to provide an ample breeding reserve of males. In any event it is evident that the determination of the number of male seals to be reserved each year for this purpose will present no difficulty; and in this connection it should be noted, as stated in my former message on this subject, that—

> since the fur-seal business has been taken over by the Government and no private interests are now concerned in making a profit out of it, there is no urgent necessity for imposing by legislation stringent limitations upon land killing.

The only provision in the convention authorizing the United States to limit or suspend land killing is the reservation in Article X that nothing therein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on its islands and to impose such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them, "as may seem necessary to protect and preserve the seal herd or to increase its number." It is clear from the terms of the convention that the right thus reserved to the United States to regulate or suspend land killing is not an arbitrary right, but can be exercised only when necessary to protect or preserve or increase the herd. It is also clear that this provision must be read in connection with the main purpose of the convention, and that the right reserved should be exercised in aid of that purpose. It has already been shown that the result aimed at by this convention was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd. It follows, therefore, that when a limitation or suspension of land killing would interfere with, rather than promote, this purpose of the convention there would then be not only no necessity but no justification for such limitation or suspension.

The argument has been advanced that in addition to the right thus reserved the convention recognized an absolute right in the United States arbitrarily to suspend all land killing, because, according to this argument, another clause of the convention fixes a measure of damages to be paid each year to the other parties whenever the United States prohibits all land killing. The clause referred to is found in Article XI, which provides that in case the United States shall absolutely prohibit all land killing of seals, then it shall pay to Great Britain and Japan each the sum of $10,000 annually in lieu of their share of skins during the years when no killing is allowed. It is evident, however, from an examination of the other provisions of the same clause of the convention that these $10,000 payments can not be, and were not intended to be, regarded as a measure of damages, because Great Britain and Japan are required to repay them to the United States with interest at 4 per cent out of the proceeds of their

share of the skins taken whenever land killing is resumed. A payment which is subsequently to be refunded clearly is not a measure of damages. Moreover, even if this provision could be regarded as fixing a measure of damages, that in itself would not justify the United States in arbitrarily imposing those damages upon Great Britain and Japan. These provisions requiring the $10,000 payments to be made when land killing is suspended and to be refunded when killing is resumed, clearly have an ulterior purpose, otherwise they are wholly unnecessary, for the same result would have been accomplished with much greater simplicity by omitting them altogether. The ulterior purpose becomes perfectly clear when we consider that under the laws in force when the treaty was made it was within the power of the Secretary of Commerce and Labor to suspend land killing altogether whenever in his opinion the welfare of the herd required such action. The evident purpose, therefore, of this requirement for making substantial payments when land killing was suspended, was to prevent the suspension of land killing by Executive action unless Congress was prepared to appropriate the money necessary for making such payments. It was undoubtedly assumed that the necessity for adopting legislation appropriating the money to make these payments would lead to a careful investigation of whether or not the actual condition of the herd warranted a total suspension of land killing, and that the appropriation would not be made unless the investigation produced satisfactory evidence that such suspension of killing was absolutely necessary within the requirements of the treaty.

In view of the present condition of the herd and the very marked increase in its size and particularly in the number of female seals, which has resulted from the operation of this convention during a single year, and which, as above shown, is to be attributed almost wholly to the protection afforded by the prohibition against pelagic sealing, I recommend to Congress the immediate consideration of whether or not the complete suspension of land killing imposed by this act is now necessary for the protection and preservation of the herd, and for increasing its number within the meaning and for the purposes of the convention. If no actual necessity is found for such suspension then it is not justified under the convention, and the act should be amended accordingly.

As stated in my annual message to Congress in December last, it is important that in case there is any uncertainty as to the real necessity for suspending all land killing, this Government should yield on that point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations. I also wish to impress upon Congress that, as stated in my former message on this subject, it is essential in dealing with it not only to fulfill the obligations imposed upon the United States by the letter and the spirit of the convention, but also to consider the interests of the other parties to the convention, for their cooperation is necessary to make it an effective and permanent settlement of the fur-seal controversy.

WM. H. TAFT.

THE WHITE HOUSE, *January 8, 1913.*

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